

## Employment and Training Administration, Labor

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carry out fully the purposes of the Act and this part 617.

(f) *Breach.* If the Secretary finds that a State or State agency has not fulfilled its commitments under its Agreement under this section, section 3302(c)(3) of the Internal Revenue Code of 1986 shall apply. A State or State agency shall receive reasonable notice and opportunity for hearing before a finding is made under section 3302(c)(3) whether there has been a failure to fulfill the commitments under the Agreement.

(g) *Secretary's review of State agency compliance.* The appropriate Regional Administrator shall be initially responsible for the periodic monitoring and reviewing of State and State agency compliance with the Agreement entered into under this section.

(h) *Program coordination.* State agencies providing employment services, training and supplemental assistance under Subpart C of this part shall, in accordance with their Agreements under this section, coordinate such services and payments with programs and services provided by State Service Delivery Areas, Private Industry Councils, and substate grantees under the Job Training Partnership Act and with the State agency administering the State law.

(i) *Administration absent State Agreement.* In any State in which no Agreement under this section is in force, the Secretary shall administer the Act and this part 617 and pay TAA hereunder through appropriate arrangements made by the Department, and for this purpose the Secretary or the Department shall be substituted for the State or cooperating State agency wherever appropriate in this part 617. Such arrangements shall include the requirement that TAA be administered in accordance with this part 617, and the provisions of the applicable State law except to the extent that such State law is inconsistent with any provision of this part 617 or section 303 of the Social Security Act (42 U.S.C. 503) or section 3304(a) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(a)), and shall also include provision for a fair hearing for any individual whose application for TAA is denied. A final determination under paragraph (i) of this

section as to entitlement to TAA shall be subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. 405(g)).

[51 FR 45848, Dec. 22, 1986, as amended at 53 FR 32351, Aug. 24, 1988; 59 FR 941, Jan. 6, 1994]

### § 617.60 Administration requirements. [Reserved]

### § 617.61 Information, reports, and studies.

A State agency shall furnish to the Secretary such information and reports and conduct such studies as the Secretary determines are necessary or appropriate for carrying out the purposes of the Act and this part 617.

### § 617.62 Transitional procedures.

The procedures for administering the Trade Act of 1974 before and after the amendments made by title XXV of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) are as follows:

(a) *TRA.* The provisions contained in subpart B of this part 617 shall apply with respect to the qualifying requirements for TRA for adversely affected workers who are separated on or after October 1, 1981, and were not entitled to TRA for any week of unemployment beginning before October 1, 1981. In addition, such provisions shall apply to TRA payable for weeks of unemployment beginning after September 30, 1981, to adversely affected workers separated before October 1, 1981. Any adversely affected worker entitled to TRA for any week of unemployment beginning before October 1, 1981, shall be entitled to TRA as follows:

(1) *Weeks before October 1, 1981.* For weeks of unemployment beginning before October 1, 1981, TRA eligibility shall be determined under the provisions of the law and regulations in effect before the amendments made by title XXV of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35).

(2) *Weeks after September 30, 1981.* (i) *Basic weeks (UI exhaustion).* For any week of unemployment beginning after September 30, 1981, TRA eligibility for an individual who has exhausted all rights to UI prior to such week shall be

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determined under subpart B of this part 617, except that the maximum amount of basic TRA payable to the individual for any such week of unemployment shall be an amount equal to the product of the amount of TRA payable to the individual for a week of total unemployment (as determined under § 617.13(a)) multiplied by a factor determined by subtracting from fifty-two the sum of:

(A) The number of weeks preceding the first week which begins after September 30, 1981, including all weeks in the individual's first benefit period, and which are within the period covered by the same certification as such week of unemployment, for which the individual was entitled to a payment of TRA or UI (or would have been entitled to a payment of TRA or UI if the individual had applied therefor); plus

(B) The number of weeks preceding such first week that are deductible under section 232(d) of the Trade Act of 1974 in effect before the amendments made by the Omnibus Budget Reconciliation Act of 1981.

(C) The amount of TRA payable to an individual under this paragraph (a)(2)(i) shall be subject to adjustment on a week-to-week basis as may be required by § 617.13(b).

(ii) *Basic weeks UI entitlement.* For any week of unemployment beginning after September 30, 1981, TRA eligibility for an individual who still has entitlement to UI shall be discontinued until the individual exhausts all rights to UI as provided in § 617.11(a)(5). After exhaustion of all rights to UI, payment of TRA shall be determined under subpart B of this part 617, except that the maximum amount of basic TRA payable to the individual for ensuing weeks of unemployment shall be an amount equal to the remainder of:

(A) The maximum amount of basic TRA as computed under paragraph (a)(2)(i) of this section; *minus*

(B) The total sum of UI to which the individual was entitled (or would have been entitled if the individual had applied therefor) for weeks beginning after September 30, 1981.

(iii) *Additional weeks.* With respect to any week of unemployment beginning after September 30, 1981, for an individual who is in training approved

under section 236 of the Trade Act of 1974, and who was receiving TRA for basic or additional weeks beginning before October 1, 1981, the weekly amount of TRA for any additional weeks beginning after September 30, 1981, shall be determined under subpart B of this part 617.

(3) *Transitional eligibility period.* (i) *Basic weeks.* Any individual who was eligible for a basic TRA payment for any week beginning before October 1, 1981, shall not be eligible for a basic TRA payment for any week beginning after September 30, 1981, and which begins more than 52 weeks after the individual has exhausted all rights to regular compensation in the first benefit period (as provided in § 617.15(a)).

(ii) *Additional weeks.* Any individual who was eligible for a TRA payment for an additional week beginning before October 1, 1981, shall not be eligible for a TRA payment for any additional week beginning after September 30, 1981, unless such additional week begins within:

(A) 26 weeks after the last week of the individual's entitlement to basic TRA, or

(B) 78 weeks after the individual exhausted regular compensation in the first benefit period, whichever occurs first (as provided in § 617.15).

(b) *Training, other reemployment services, and allowances.* (1) Applications for training filed before October 1, 1981, concerning the approval of such training after September 30, 1981, shall be determined under subpart C of this part 617.

(2) Applications for transportation and subsistence payments while in training, and job search and relocation allowances filed after September 30, 1981, shall be determined under the applicable subpart C, D, or E of this part 617.

(3) Individuals who have had self-financed training approved prior to October 1, 1981, shall not be reimbursed for training and related expenses incurred while in such training. However, such individuals may have their eligibility for approved training considered under the criteria outlined in the amended section 236 of the Act and in

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§ 617.22, and, if approved, shall be entitled to have post-approval training costs paid.

(c) *Fraud and recovery of overpayments.* The fraud and overpayment recovery provisions of this subpart G shall take effect on August 13, 1981, and shall apply to all overpayments outstanding on that date or determined on or after that date.

(d) *Required amendments to State law.* The provisions of section 2514(a)(2)(D) of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) (relating to amendment of State laws) shall apply to State laws for the purposes of certifications under section 3304(c) of the Internal Revenue Code of 1984 on October 31 of any taxable year after 1981; except that, in any State in which the legislature of that State—

(1) Does not meet in a session which begins after August 13, 1981, and before September 1, 1982, and

(2) If in session on August 13, 1981, and does not remain in session for at least 25 calendar days thereafter, the date of “1981” in this paragraph (d) shall be deemed to be “1982.”

[51 FR 45848, Dec. 22, 1986, as amended at 53 FR 32352, Aug. 24, 1988]

### § 617.63 Savings clause.

The amendments to the Act made by title XXV of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) shall not abate or otherwise affect entitlement to TAA under the Trade Act of 1974 or any appeal which was pending on October 1, 1981, or on the date of enactment of any such amendment, as applicable, or prevent any appeal from any determination thereunder which did not become final prior to such applicable date if appeal or petition is filed within the time allowed for appeal or petition.

### § 617.64 Termination of TAA program benefits.

The following rules are applicable to the termination of TAA benefits under the Act:

(a) No application for TRA, or transportation or subsistence payment while in training approved under subpart C of this part 617, shall be approved, and no payment of TRA or payment for transportation or subsistence occurring on

or before the termination date shall be made after the termination date specified in the Act, unless the claim for TRA or an invoice for transportation and subsistence is presented to the State agency and a final determination is made on the amount payable on or before the termination date in the Act.

(b) No payment of job search or relocation allowances shall be made after the termination date specified in the Act, unless an application for such allowances was approved, such job search or relocation was completed, and a final determination made on the amount payable for such benefits by the State agency on or before the termination date in the Act.

(c) No training under subpart C of this part shall be approved unless a determination regarding the approval of such training was made on or before the termination date in the Act, and such training commenced on or before such termination date. Consistent with the requirements of section 236(a)(1) of the Act, and the termination provisions of paragraph (c) of this section, a final determination must be made on the invoice for the training costs by the State agency on or before the termination date specified in the Act to cover tuition related expenses. Determinations on tuition bills shall be limited to the training term, quarter, semester or other period beginning on or before the termination date in the Act. The training period should be in accord with normal billing practices of the training provider and/or State agency approval practices.

[59 FR 941, Jan. 6, 1994]

### § 617.65 Transition procedures for amendments in sections 2671 and 2672 of Pub. L. 98-369 (Deficit Reduction Act of 1984).

The procedures for administering the Trade Act of 1974 as amended by the Deficit Reduction Act of 1984 are as follows:

(a) *TRA.* (1) The provisions in subpart B of this part 617 shall apply to workers who would lose additional weeks of TRA payments because of delays in approving applications for training. Workers who filed timely, bona fide applications for training shall be eligible to receive additional weeks of TRA